

EXHIBIT “C”

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TERESA MCCOY,

Plaintiff,

Civil Action No.:
21-cv-04907

ANSWER

-against-

THE TJX COMPANIES, INC.,

Defendant.
-----X

Defendant, THE TJX COMPANIES, INC., ("defendant") by its attorneys, SIMMONS JANNACE DELUCA, LLP, as and for its Answer to the Complaint of plaintiff, responds as follows:

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph "1" of the Verified Complaint.

2. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph "2" of the Verified Complaint except admits The TJX Companies, Inc. is a Delaware Corporation with its principal place of business in the State of Massachusetts.

3. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph "3" of the Verified Complaint and leaves all questions of law to the Court.

4. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph "4" of the Verified Complaint and leaves all questions of law to the Court.

5. Denies the allegations contained in numbered paragraph "5" of the Verified Complaint.

6. Denies the allegations contained in numbered paragraph "6" of the Verified Complaint.

7. Denies the allegations contained in numbered paragraph "7" of the Verified Complaint.

8. Denies the allegations contained in numbered paragraph "8" of the Verified Complaint.

9. Denies in the form alleged the allegations contained in numbered paragraph "9" of the Verified Complaint and leaves all questions of law to the Court.

10. Denies the allegations contained in numbered paragraph "10" of the Verified Complaint.

11. Denies the allegations contained in numbered paragraph "11" of the Verified Complaint.

12. Denies plaintiff is entitled to the relief requested in the "WHEREFORE Clause."

13. Defendant demands that liability, if any, be apportioned.

AS AND FOR ITS FIRST AFFIRMATIVE DEFENSE

14. Plaintiff's Complaint fails to state a cause of action.

AS AND FOR ITS SECOND AFFIRMATIVE DEFENSE

15. Upon information and belief, plaintiff has not effectuated valid service, pursuant to the CPLR, and therefore, this Court lacks jurisdiction over the person of the defendant.

AS AND FOR ITS THIRD AFFIRMATIVE DEFENSE

16. Upon information and belief, the injuries allegedly sustained by plaintiff were not as a result of any culpable conduct by the defendant herein, or in the alternative, the amount of damages otherwise recoverable shall be diminished in the percentage proportion of the culpable conduct of plaintiff, which contributed to or caused plaintiff's alleged injuries.

AS AND FOR ITS FOURTH AFFIRMATIVE DEFENSE

17. Upon information and belief, any damages sustained by plaintiff were caused, in whole or in part, by the culpable conduct of plaintiff and/or were aggravated by the culpable conduct of plaintiff.

AS AND FOR ITS FIFTH AFFIRMATIVE DEFENSE

18. If plaintiff proves at trial the existence of a dangerous condition, all of which is denied, upon information and belief, any damages sustained by plaintiff were caused by plaintiff having voluntarily and unreasonably assumed a known

and dangerous risk, and/or the damages were caused by or aggravated by such conduct.

AS AND FOR ITS SIXTH AFFIRMATIVE DEFENSE

19. This defendant will rely upon the provisions of Article 16 of the CPLR with regard to the limitation of joint and several liability.

AS AND FOR ITS SEVENTH AFFIRMATIVE DEFENSE

20. Upon information and belief, defendant never received actual or constructive notice of any defective or dangerous condition, and therefore, it cannot be liable for any alleged injuries suffered by plaintiff.

AS AND FOR ITS EIGHTH AFFIRMATIVE DEFENSE

21. Upon information and belief, if plaintiff suffered any damages as alleged in the Complaint, such damages were as a result of an independent superseding act by a third party for which defendant cannot be held liable, and defendant's conduct was in no way the proximate cause of such damages.

AS AND FOR ITS NINTH AFFIRMATIVE DEFENSE

22. If plaintiff suffered damages as alleged, then plaintiff failed to mitigate such damages.

AS AND FOR ITS TENTH AFFIRMATIVE DEFENSE

23. If plaintiff herein has received remuneration and/or compensation for some or all of her claimed economic loss, or will with reasonable certainty receive remuneration and/or

compensation for said loss in the future, this defendant is entitled to have plaintiff's award, if any, reduced by the amount of said remuneration and/or compensation, pursuant to Section 4545(c) of the CPLR.

AS AND FOR ITS ELEVENTH AFFIRMATIVE DEFENSE

24. The alleged condition was open, obvious, notorious, readily apparent, visible and not inherently dangerous.

WHEREFORE, for all of the foregoing reasons, it is respectfully requested that plaintiff's complaint be dismissed in its entirety, and that defendant be awarded the costs and disbursements of this action, reasonable attorney's fees, and such other and further relief as this Court may deem just and proper.

Dated: Hauppauge, New York
June 7, 2021

Simmons Jannace DeLuca, LLP

By: 

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CERTIFICATE OF SERVICE

RE: TERESA MCCOY v. THE TJX COMPANIES, INC.
CIVIL ACTION NO.: 7:21-cv-4907

I hereby certify that on June 7, 2021, the foregoing ANSWER was filed with the Clerk of the Court and served in accordance with the Federal Rules of the Civil Procedure, and/or the Southern District's Local Rules, and/or the Southern District's Rules on Electronic Service upon the following parties and participants:

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BY: /s/Allison C. Leibowitz
Allison C. Leibowitz
SIMMONS JANNACE DELUCA, LLP